REMARKS

Claims 1-13 are pending. Claims 14-16 are new and will be pending on entry. Claims 1, 6 and 8 are being amended. Claim 10 has been canceled.

The Examiner rejected claims 12 and 13 due to lack of antecedent basis for "the second memory." Claim 8, from which claims 12 and 13 depend, has been amended to resolve this rejection by including "a second memory" within amended claim 8.

The Examiner objected to the numbering of the claims. Claim 7 was not included in the preliminary amendment of October 4, 2001 because claim 7 was not amended. However, Claim 7 was included in the original application. Claim 7 has been included in the Listing of Claims above.

Claims 1-3, 5, 8, 9, and 11 were rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,570,911 to O'Mahony ("O'Mahony").

O'Mahony does not teach the invention recited in claim 1, as amended. Claim 1 recites a method that includes dividing a data transfer function into phases by inactivity intervals during which the data transfer function is suspended. Code segments are respectively associated with the phases. In addition, claim 1 recites downloading a code segment during one of the inactivity intervals prior to the commencement of the respective phase.

O'Mahony does not disclose inactivity intervals during which a data transfer function is suspended. O'Mahony teaches a method for controlling modem data pump parameters. The data pump in O'Mahony operates continuously, processing data in real-time. In fact, O'Mahony teaches that inactivity of data pump processing is not acceptable since data is lost during periods of suspension (see col. 5, lines 16-25). In contrast, the claimed invention discloses inactivity intervals during which the data transfer function is suspended.

O'Mahony does not disclose downloading a code segment during an inactivity interval. O'Mahony teaches the generation of a set of parameters for a modem data pump. As discussed above, the modem data pump in O'Mahony operates continuously, without inactivity intervals to prevent loss of data. Consequently, even if O'Mahony did download code segments, the code segments could not be downloaded during inactivity intervals of a data transfer function.

For the foregoing reasons, claim 1, as amended, is not anticipated by O'Mahony.

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Claims 2-3, and 5 depend on claim 1, and thus, are also not anticipated by O'Mahony.

Claim 8 is being amended to include the content of previously presented claim 10, which was allowed by the Examiner. Accordingly, claim 10 has been cancelled. For the foregoing reason, claim 8 is not anticipated by O'Mahony.

Claims 9 and 11 depend on claim 8, and thus, are also not anticipated by O'Mahony.

Claims 14-16 are new. Claim 14 includes the content of the previous version of claim 4 in independent form. The Examiner found claim 4 allowable, but objected to claim 4 as being dependent on a rejected base claim. Consequently, claim 4 is not anticipated by O'Mahony. Claims 15 and 16 depend on claim 14, and thus, are also not anticipated by O'Mahony.

The Director is authorized to charge any additional fees due by way of this Amendment, or credit any overpayment, to our Deposit Account No. 19-1090.

All of the claims remaining in the application are now clearly allowable. Favorable consideration and a Notice of Allowance are earnestly solicited.

Respectfully submitted,

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